

Phone/ 100: 614-410-4600 Fax: 614-410-4747 Web Site: www.dublin.oh.us City of Dublin Board of Zoning Appeals

Planning Report

Thursday, June 26, 2014

Bahnub Residence-6849 Holbein Drive

Case Summary

Agenda Number 3

Case Number 14-055V

Location 6849 Holbein Drive

South side of Holbein Drive approximately 510 feet west of Post Preserve

Boulevard.

Proposal To construct a second-story deck and patio that encroaches six-feet into a

30-foot rear yard setback.

Request Non-use (area) variance to Sections 153.053(2)(A) to permit a second-story

deck and patio that encroaches the rear yard setback of a residential

property zoned PLR, Planned Low Density Residential District.

Requires review and approval by the Board of Zoning Appeals based on the

review criteria of Zoning Code Section 153.231.

Applicants Brent and Jodie Bahnub, owners.

Planners: Tammy Noble-Flading, Senior Planner.

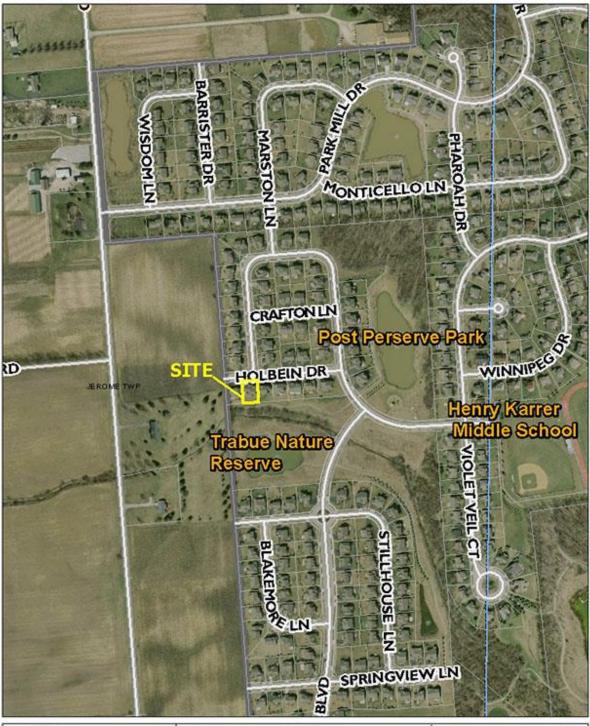
Planning Contact: (614) 410-4649 or tflading@dublin.oh.us

Planning

Recommendation Approval of a Variance to the Rear Yard Setback.

Based on Planning's analysis, the request does meet the review criteria

for a non-use (area) variance, and approval is recommended.





14-055V Rear Yard Setback Variance Bahnub Residence 6849 Holbein Drive





Facts		
Site Description	The 0.22 acre site has a single-far encompasses most of the site. The site Reserve, which includes a walking parapplicant's property. The site also has a not be impacted by the request.	site abuts the Trabue Natural ath that runs parallel to the
Zoning	PLR, Planned Low Density Residential Dis	trict; Post Preserve subdivision.
Surrounding Zoning and Uses	The site is surrounded by residential de Low Density Residential District, Post Pres	
Proposal	The applicant is proposing to construct a 10' x 20' second-story deck and a 16' x 17' 4" paver patio with stairs connecting the two areas. Both structures will encroach into the rear yard setback. The deck and patio will encroach six-feet into the required rear yard (indicated by red line). The site also has a 20-foot No Build Zone which is not affected by this request.	20' ESMT. 21' NO BUILD ZONE 20' ESMT. 24.0' 16.0' 8.5'

Details	Rear Yard Setback
Process	Zoning Code Section 153.231(C)(3) allows the Board of Zoning Appeals to approve requests for non-use (area) variances only in cases where the Board finds there is evidence of a practical difficulty present on the property, limiting conformance to the strict requirements of the Zoning Code. The Board shall make a finding that the required review standards have been appropriately satisfied (refer to the last page of this report for the full wording of the review standards).
Variance Request	Section 153.053(2)(a) allows residential lots located within planned districts to apply for variances to the approved development text. The applicants are requesting to construct a second-story deck and a paver patio that will encroach six feet into a 30-foot rear yard setback established by the Post Preserve development text.

Analysis	Rear Yard Setback	
ALL THREE OF THE FOLLOWING STANDARDS MUST BE MET		
(1) Special Conditions	Standard Met The site abuts a park that provides additional, and undevelopable, land to the rear of the home. This is a unique feature that provides buffer that would otherwise be necessitated by a rear yard setback. Having this abutting open space is a feature that is not common in most residential lots.	
(2) Applicant Action/Inaction	Standard Met The developer designed the site and provided parkland, adjacent to these lots. This is not attributed to actions or inactions of the applicant.	
(3) No Substantial Adverse Effect/ Hinder Intent of Regulation	Standard Met The purpose of rear yard setbacks is to create uninterrupted view sheds, unilateral space amongst properties, and provide minimum buffers between properties. In this instance, the property abuts a dedicated park that will enhance any open view sheds that would be provided by the Post Preserve subdivision and creates buffering that mitigates the needs for rear yard setbacks. Therefore, Planning is concluding that this request would not have an adverse impact to the surrounding community or the intent of the regulation.	
AT LE	AST <u>TWO</u> OF THE FOLLOWING FOUR STANDARDS MUST BE MET	
(1) Special Privileges	The following standards have been reviewed with the finding that two standards are met. Standard Met The buildable area, to the rear of the house, is extremely limited. Requiring the applicants to meet this provision of the Code would make the outdoor space "unusable" and therefore deprive them a right commonly enjoyed by other property owners.	
(2) Recurrent in Nature	Standard Not Met This type of request is becoming more common yet has not risen to the degree of "recurrent in nature". As a proactive method of addressing the issue, Planning is researching how other communities regulate decks and patios and if modification are made, staff will apprise the Board of such actions.	
(3) Delivery of Governmental Services	Standard Met The request will not impact the delivery of governmental services.	
(4) Other Method Available	Standard Met The purpose of the second-story deck is to allow access to the rear yard, from one of the main entrances of the house. Limiting the deck area to four-feet in depth creates a narrow space that is disproportionate to the house. Although functional, this would not distract from the overall	

Analysis	Rear Yard Setback
	appearance of the site and therefore not a desired alternative.

Recommendat	ion Approval
Approval	Based on Planning's analysis, the request does not meet the review criteria for a non-use (area) variance, therefore approval is recommended.

NON-USE (AREA) VARIANCES

Section 153.231(H)(1) Variance Procedures

On a particular property, extraordinary circumstances may exist making a strict enforcement of the applicable development requirements of this Code unreasonable and, therefore, the variance procedure is provided to allow the flexibility necessary to adapt to changed or unusual conditions that meet the standards of review for variances. In granting any variance, the Board of Zoning Appeals shall prescribe appropriate conditions and safeguards to maintain the intent and spirit of the zoning district in conformity with the Zoning Code.

Non-Use (Area) Variances. Upon application, the Board of Zoning Appeals shall only approve a request for a non-use variance only in cases where there is evidence of practical difficulty present on the property in the official record of the hearing, and that the findings required in (a) and (b) have been satisfied with respect to the required standards of review (refer to the last page of this Report for the full wording of the review standards):

(a) That <u>all</u> of the following three findings are made:

- (1) That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district whereby the literal enforcement of the requirements of this Chapter would involve practical difficulties. Special conditions or circumstances may include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this Chapter or amendment; or by reason of exceptional topographic or environmental conditions or other extraordinary situation on the land, building or structure; or by reason of the use or development of the property immediately adjoining the property in question.
- (2) That the variance is not necessitated because of any action or inaction of the applicant.
- (3) Granting the variance will not cause a substantial adverse effect to property or improvements in the vicinity or will not materially impair the intent and purposes of the requirement being varied or of this Chapter.

(b) That at least two of the following four findings are made:

- (1) That a literal interpretation of the provisions of the Zoning Code would not confer on the applicant any special privilege or deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter.
- (2) The variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for those conditions reasonably practicable.
- (3) The variance would not adversely affect the delivery of governmental services (e.g., water, sewer, garbage).
- (4) The practical difficulty could be eliminated by some other method, even if the solution is less convenient or most costly to achieve.